

JORGE GARRIDO
Name 14447104
Prison Number
FEDERAL CORRECTIONAL INSTITUTION
P.O. BOX 9
MENDOTA, CA 93640
Address or Place of Confinement

FILED

AUG 03 2022

CLERK, U.S. DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA
BY CP DEPUTY CLERK

Note: If represented by an attorney, write attorney's name, address & telephone number

United States District Court
EASTERN DISTRICT OF CALIFORNIA

JORGE GARRIDO
Full Name (First, Middle, Last)

Petitioner,

vs.

WARDEN, FCI-MENDOTA
Name of Warden
(or other authorized person having custody of petitioner)

Respondent.

CASE NO. 2:22-CV-1374 — KJN HC
(to be supplied by the Clerk of the
United States District Court)

**PETITION FOR
WRIT OF HABEAS CORPUS
PURSUANT TO 28 U.S.C. § 2241
BY A PERSON IN FEDERAL CUSTODY**

PLEASE COMPLETE THE FOLLOWING (check the appropriate number):

This petition concerns:

1. ☐ a conviction
2. ☐ a sentence
3. ☐ jail or prison conditions
4. ☐ prison discipline
5. ☐ a parole problem
6. ☒ other

CAUTION: If you are attacking a federal conviction, sentence or judgment, you must first file a direct appeal or motion under 28 U.S.C. § 2255 in the federal court which entered judgment.

PETITION

- (1) Place of detention: FCI Mendota, P.O. Box 9, Mendota, CA
- (2) Name and location of court which imposed sentence: U.S. District Court, Southern District of Florida
- (3) Offense(s) and indictment number(s) (if known) for the sentence imposed:
1:18-cr-20784-CMA-1 Counts: 1 count 18 U.S.C. 1349 ; and
5 Counts 18 U.S.C. 1343 (Conspiracy and wire fraud)
- (4) The date the sentence was imposed and the terms of the sentence:

- (5) What was your plea (check one): Not guilty () Guilty (✓) Nolo contendere ()
- (6) Kind of trial (check one): Jury () Judge only ()
- (7) Did you appeal from the judgment of conviction or the imposition of sentence: Yes () No (✓)
- (8) If you did appeal, answer the following for *each* appeal:

FIRST APPEAL:

Name of court: _____

Grounds raised (list each):

1) _____

2) _____

Result/Date of result: _____

SECOND APPEAL:

Name of court: _____

Grounds raised (list each):

1) _____

2) _____

Result/Date of result: _____

GROUND FOR THIS 28 U.S.C. § 2241 PETITION

- (9) State *CONCISELY* every ground on which you claim that your sentence is being executed in an illegal manner. Summarize *briefly* the facts supporting each ground

CAUTION: If you fail to set forth all grounds in this petition, you may be barred from presenting additional grounds at a later date.

→ GROUND ONE THE BOP HAS FAILED TO CREDIT PETITIONER
WITH THE 1 YEAR OF EARNED TIME CREDITS UNDER THE FSA

Supporting **FACTS** for **GROUND ONE** (tell your story **BRIEFLY** without citing cases or law).

CAUTION: You must state *facts*, not *conclusions*, in support of your grounds. A rule of thumb to follow is -- who did exactly what to violate your rights at what time or place.

I have earned over 12 months of earned time credits as authorized by 18 U.S.C.S. 3632(d)(4) and Section 101 of the First Step Act of 2018 for participation in programming, however, the BOP has not awarded me with my earned time credits. I qualify to earn ETCs under the FSA but I have not been credited the ETCs by the Federal Bureau of Prisons.

→ GROUND TWO

Supporting **FACTS** for **GROUND TWO** (tell your story **BRIEFLY** without citing cases or law).

ADMINISTRATIVE APPEALS

- (10) Have you presented the claims raised in Question #9 of this petition to prison officials in a prison administrations appeal?

Yes () No (✓) If your answer is no, explain why not: (See Declaration) I am being prevented from utilizing the grievance process.
If your answer is yes, answer the following for *each* administrative appeal:

FIRST ADMINISTRATIVE APPEAL

Level of appeal: _____

Grounds raised (list each):

- 1) _____
2) _____

Result/Date of result: _____

SECOND ADMINISTRATIVE APPEAL

Level of appeal: _____

Grounds raised (list each):

- 1) _____
2) _____

Result/Date of result: _____

THIRD ADMINISTRATIVE APPEAL

Level of appeal: _____

Grounds raised (list each):

- 1) _____
2) _____

Result/Date of result: _____

FOURTH ADMINISTRATIVE APPEAL

Level of appeal: _____

Grounds raised (list each):

- 1) _____
2) _____

Result/Date of result: _____

- (11) Is the grievance process completed? Yes (✓) No () I have no access to the grievance process.

PREVIOUS PETITIONS

- (12) Have you filed previous petitions for habeas corpus under 28 U.S.C. § 2241 or 28 U.S.C. § 2255, or any other applications, petitions or motions with respect to the claims raised in Question #9 of this petition?

Yes () No (✓)

- (13) If your answer to Question #12 was yes, give the following information for *each* previous petition:

FIRST PREVIOUS PETITION

Name of court: _____

Nature of proceeding: _____

Grounds raised (list each):

- 1) _____
2) _____

Result/Date of result: _____

SECOND PREVIOUS PETITION

Name of court: _____

Nature of proceeding: _____

Grounds raised (list each):

- 1) _____
2) _____

Result/Date of result: _____

- (14) If the claims raised in Question #9 of this petition concern your conviction or sentence, explain why you are filing your petition pursuant to § 2241 instead of § 2255.

(15) Are you presently represented by counsel?

Yes ()

No (✓)

If so, provide your attorney's name, address, and telephone number:

(16) If you are seeking leave to proceed *in forma pauperis*, have you completed the application setting forth the required information?

Yes ()

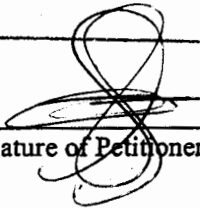
No (✓)

Note: If your answer is no, you must send a \$5.00 filing fee to the court with your petition.

WHEREFORE, petitioner prays that the court grant petitioner relief to which he may be entitled in this proceeding.

I declare (or certify, verify, or state) under penalty of perjury that the foregoing is true and correct.

July 24, 2022
(Date)


(Signature of Petitioner)

(Signature of Attorney, if any)

Declaration of Jorge Garrido

JORGE GARRIDO states:

1. I am the petitioner in this action. I submit this sworn declaration in support of my Petition for Writ of Habeas Corpus.
2. I am incarcerated at FCI Mendota where the entire prison is on "modified operations" — see www.bop.gov — and currently this means that all inmates including me are confined in their 2-man cells 24 hours per day all week long except for ten minute showers every 72 hours.
3. During my period of incarceration in BOP custody I have participated in productive programming as defined by Section 101 of the First Step Act of 2018 ("FSA"). Under the FSA I have earned well over 12 months of earned time credits ("ETCs"). The BOP had until January 15, 2022 to award all BOP inmates eligible for ETCs the ETCs they earned. See i.e. *Herring v. Joseph*, No. 4:20-cv-249, 2020 WL 3642706, at *1 (N.D. Fla. July 6, 2020); *Holt v. Warden*, 4:20-cv-04064-RAL, (D.S.D. May 13, 2021); and 18 U.S.C.S. 3621(h)(2)(A).

4. In an attempt to remedy the issue concerning my ETC's not being awarded to me I attempted to file a grievance during FCI Mendota's modified operations period whereas I was confined to my 2-man cell 24 hours per day. In order to access the BOP's administrative remedy process I have to file a BP-8 form, however, these forms are not freely accessible and are only available through my unit team staff, my prison counselor in particular.

5. I made several requests to speak to my unit team prison counselor during the week of July 18th, however, my counselor never responded to any of my numerous requests. It is BOP policy that members of our unit team staff are to make daily rounds to our cells during each day of a prison lockdown. In my set of circumstances the only method whereby I could submit a grievance and access the administrative remedy process would be for my counselor to make rounds during the prison lockdown but I never saw my counselor during this lockdown and she never once made any rounds stopping by my cell or even coming into A-2 Housing Unit where my cell is.

6. On July 19, 2022, I made a request via "cop out" to obtain a BP-B grievance form from my counselor. My request was never answered. Before July 19, 2022 I also made several additional requests for the form I need to file my grievance but my requests were ignored.

7. Without the ability to access the grievance process due to the BOP staff I cannot exhaust my administrative remedies with the BOP before requesting relief from the Court.

I declare under penalty of perjury that the foregoing is true and correct and executed this 24th day of July 2022 at Mendota, California.



JORGE GARRIDO

Prisoner No. 14447-104

FCI Mendota

P.O. Box 9

Mendota, CA 93640